

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

CONSTANTINEE L. JACKSON,

Petitioner,

-v-

17-CV-1231V
ORDER

SUPERINTENDENT M. KIRKPATRICK,

Respondent.

The pro se petitioner, Constantinee L. Jackson, is a prisoner at the Clinton Correctional Facility. He has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254. By order dated February 22, 2018, Docket Item 3, this Court administratively closed the petitioner's case because he did not pay the five-dollar filing fee nor did he submit a motion to proceed in forma pauperis.

That order specifically informed the petitioner that he could move to re-open his action by either (1) paying the filing fee or (2) submitting a motion to proceed in forma pauperis that includes a completed and signed prison certification section. The Court gave the petitioner 30 days to fix this error, and to submit the motion to proceed in forma pauperis along with the certification to the Court.

The petitioner responded to the Court's order, but he again failed to include the filing fee or the required motion to proceed in forma pauperis along with a completed and signed certification. In his response, the petitioner moved to appeal the judgment dated February 26, 2018, without paying the filing fee. The petitioner seems to argue that because he already paid the filing fee for another petition for a writ of habeas corpus in this Court, he does not have to pay the filing fee for the instant petition. Docket Item 5.

But the petitioner is mistaken and must pay a separate filing fee or submit an in forma pauperis motion for each action filed. Therefore, the petitioner again has failed to comply with the Court's prior order.

As a matter of discretion, the Court will provide the petitioner with another opportunity to correct his error. The petitioner has until September 13, 2018, to either (1) pay the filing fee (\$5.00) or (2) submit a motion to proceed in forma pauperis that includes a completed and signed prison certification section. If the petitioner does not pay the filing fee or submit a motion to proceed in forma pauperis along with a certification by September 13, 2018, this case will be dismissed without prejudice. See *Leonard v. Lacy*, 88 F.3d 181, 187–88 (2d Cir. 1996).

CONCLUSION

For the reasons set forth above, the Court will grant the petitioner another opportunity to fix his error. The petitioner has until September 13, 2018, to either (1) pay the filing fee (\$5.00) or (2) submit a motion to proceed in forma pauperis that includes a completed and signed prison certification section. If the petitioner fails to comply with this deadline, this case will be dismissed without prejudice without further order of the Court. To assist the petitioner, the Clerk of Court shall send to the petitioner a blank in forma pauperis motion.

SO ORDERED.

s/ Lawrence J. Vilardo

LAWRENCE J. VILARDO
UNITED STATES DISTRICT JUDGE

DATED: August 13, 2018
Buffalo, NY